JD(SF)–10–04
Tempe, Arizona

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SAN FRANCISCO DIVISION OF JUDGES

PROFESSIONAL MEDICAL TRANSPORT, INC.

and **Case 28-CA-18554**

GLENN BROWN, an Individual

and **Case 28-CA-18563**

INTERNATIONAL ASSOCIATION OF EMERGENCY MEDICAL TECHNICIANS AND PARAMEDICS, NAGE-SEIU, AFL-CIO

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Mark Pinkas, Western States Director of Organizing,
of Ventura, California, for the Charging Party

DECISION

Statement of the Case

Mary Miller Cracraft, Administrative Law Judge. At issue is whether Professional Medical Transport, Inc. (Respondent or PMT) discharged operations manager Glenn Brown because he refused to commit unfair labor practices and discouraged other supervisors from committing unfair labor practices in violation of Section 8(a)(1) of the National Labor Relations Act.[1] The General Counsel also alleges that Respondent created the impression it surveilled its employees' activities on behalf of International Association of Emergency Medical Technicians and Paramedics, NAGE-SEIU, AFL-CIO (the Union), interrogated its employees about their Union activities, solicited employee complaints and promised to remedy them, promised a promotion to discourage support for the Union, threatened employees that selection of the Union would bankrupt Respondent, told employees Respondent could work out employee problems without the Union's assistance, and threatened employees with possible loss of employment if employees selected the Union.

[1] Sec. 8(a)(1) of the National Labor Relations Act, as amended, 29 U.S.C. §158(a)(1), provides that it shall be an unfair labor practice for an employer to interfere with, restrain, or coerce its employees in their exercise of the right, inter alia, to organize a labor organization.

On the entire record,[2] including my observation of the demeanor of the witnesses,[3] and after considering the briefs filed by counsel for the General Counsel and counsel for Respondent, I make the following

Findings of Fact

I. Jurisdiction and Labor Organization Status

Respondent, an Arizona corporation, provides emergency and non-emergency medical transportation services. Respondent's office and principal place of business is at 2495 South Industrial Park Avenue, Tempe, Arizona. During the 12-month period ending March 5, 2003, Respondent purchased and received goods valued in excess of $50,000 directly from points located outside the State of Arizona. Respondent admits and I find that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. Background

Respondent provides ambulance services to sick or injured clients, transporting them on emergency (911) and non-emergency bases to home, urgent care centers, insurance companies, and hospitals. Respondent employs about 140 emergency medical personnel (emergency medical technicians (EMTs) and paramedics) located at 14 stations in the greater Phoenix area. Greg Boyer is vice-president of operations. Trevor Bomar, field personnel manager, who reports to Boyer, schedules personnel at these stations on a 24-hour per day, 7-day per week basis. Wayne Clonts is vice-president of administration. Loy Wayne Cruise, human resources manager, reports to Clonts. Doug Burton, current director of operations, also reports to Clonts. The prior director of operations, Glenn Brown, was discharged March 4, 2003.[4] The legality of his discharge is at issue herein. Shift commanders Keith Matlock, Dann Singleton, and William Stockley report to the director of operations.

In January, at about the same time Brown was appointed director of operations, EMT Steve Quintero contacted the Union and began an organizing effort among Respondent's emergency medical personnel. Quintero was an open Union advocate and announced at a February 19th safety meeting that he was the lead organizer for the Union.

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[2] The original, first amended, and second amended charges in Case 28-CA-18554 were filed by Glenn Brown, an individual, on March 5, March 10, and April 28, 2003, respectively. The charge in Case 28-CA-18563 was filed by the Union on March 7, 2003. The consolidated complaint was issued on April 30, 2003. The trial took place in Phoenix, Arizona on July 14 and 15 and October 15, 16, and 17, 2003.

[3] Credibility resolutions have been made based upon witness demeanor, the weight of respective evidence, established or admitted facts, inherent probabilities, and reasonable inferences drawn from the record as a whole. Testimony contrary to my findings has been discredited on some occasions because it was in conflict with credited testimony or documents or because it was inherently incredible and unworthy of belief.

[4] All dates are in 2003 unless otherwise referenced.

III. Alleged Creation of the Impression that Quintero's and Other Employees' Union Activity Was Under Surveillance

The consolidated complaint alleges that operations manager Glenn Brown created the impression of surveillance when he phoned EMT Steven Quintero and told Quintero that he knew that employees were distributing Union literature and that Quintero's name had been mentioned as a Union organizer.

Respondent hired both EMT Steven Quintero and operations manager Glenn Brown in December 2001 as part of a mass hiring of personnel laid off when the Fountain Hills Fire Station closed. Brown was initially hired as a paramedic and rose rapidly to the position of operations manager. In December 2002, Quintero contacted the Union about organizing Respondent's employees. In January 2003, Quintero and other employees began distributing Union authorization cards and general information about the Union.

Quintero recalled that in mid-January, Brown phoned him:

> [Brown] called me and asked – and let me know that the management had gotten some fliers from the union, and some cards, and that Greg Boyer had them and that my name came up as being one of the union pushers . . . and I said yes, I was . . . but I wasn't going to tell him any more than that.

Brown agreed that he phoned Quintero at the request of Greg Boyer. Boyer was upset that the Union effort was becoming more serious than he had previously thought it was. Brown thought his conversation with Quintero took place around February 10. Brown testified that he questioned Quintero generally about employees' distribution of Union literature, at the request of vice-president of operations Greg Boyer. Brown was already aware that Quintero was involved with the Union.

Although Quintero and Brown testified generally in agreement with each other, their testimony differs as to whether Brown identified Quintero as a Union leader and as to the date of the conversation. Both Quintero and Brown were highly credible witnesses who testified in detail regarding their conversation. Because Brown called Quintero to find out about employees' Union activity, it is inherently plausible that he mentioned to Quintero the fact that Quintero's name had come up as a Union leader during the conversation. However, Brown's recollection of the date of the conversation was specific while Quintero's was vague. Thus I find that around February 10, Brown called Quintero and told him that management was in possession of Union fliers and cards and that Quintero's name had been mentioned as a Union leader.

After his conversation with Brown, Quintero told human resources manager Cruise that employees were looking into organizing. Thereafter, on or about February 19, at a 10 a.m. safety meeting conducted by Brown, Quintero, in response to a question from another employee about who started the Union drive, volunteered that he was the one who began the drive and he could provide any other information that the employee needed. Quintero later spoke to Loy Cruise who told Quintero that he admired Quintero for stating in the safety meeting that he was the one who started the Union effort.

I have found that Brown indicated to Quintero that Boyer knew about distributions of Union literature and cards and Brown knew of Quintero's leadership role. Brown and Boyer could have acquired this information either through the grapevine or through unlawful spying.

No particular reason is advanced to infer spying over rumor. There is no dispute that Brown and Boyer were generally aware that employees were considering a Union prior to Boyer's request that Brown find out whether the effort was becoming more serious. Moreover, there is no evidence that Quintero was hiding his Union activity. There is no evidence that Quintero and other employees were distributing Union materials covertly. In fact, Boyer was in possession of some of the Union materials. There is no evidence that Brown or Boyer were privy to any discussions at Union meetings or covert discussions or activities. No specifics about the time, place or manner of distribution or details of meetings were repeated. Based upon the record as a whole, I find that Brown's statements to Quintero merely reflected what was common knowledge and did not reasonably tend to interfere with employees' Section 7 rights. Accordingly, I find that Respondent did not create an impression of surveillance through Brown's comment to Quintero. *SKD Jonesville Division L.P.,* 340 NLRB No. 11, slip opinion at 2 (Sept. 10, 2003); see also, *Curwood, Inc.,* 339 NLRB No. 148, slip opinion at 11 (Aug. 21, 2003); *Heartshare Human Services of New York, Inc.,* 339 NLRB No. 102, slip opinion at 3 (July 29, 2003). The complaint allegation is dismissed.

IV. Allegations Regarding Bomar and Quintero

The consolidated complaint alleges that during two conversations between field personnel manager Trevor Bomar and EMT Steven Quintero on February 20, Bomar interrogated Quintero, solicited complaints and promised to remedy them, promised Quintero a promotion in order to discourage Union support, threatened bankruptcy if the Union became employees' collective-bargaining representative, told Quintero employees should work out their grievances without the Union's assistance, and threatened possible job loss if employees selected the Union.

A. Quintero-Bomar Conversation While Traveling in an Automobile -- Alleged Interrogation, Solicitation of Grievances with Promise to Remedy, Promise of Promotion, Threat of Bankruptcy, Threat of Job Loss

On February 20, Respondent relocated its main office. Quintero, who acted as interpreter for the Spanish-speaking movers, reported to the main office at 7 a.m. Thereafter, Bomar and Quintero drove in Bomar's automobile to pick up a rental truck. During the course of the trip, Quintero and Bomar spoke about several topics in general conversation. Then, according to Quintero, Bomar asked Quintero why Quintero was "out to hurt him and Greg Boyer on this union drive . . . why [Quintero] was fucking with him and Greg Boyer." Quintero protested that he and Bomar were not supposed to talk about this. Bomar responded that the Union drive was "going to do the company bankrupt, that we're going to drive the company into bankruptcy." Bomar asked Quintero why the employees were doing this to him. Bomar added that he could help the employees.

Quintero responded that the employees had spoken to Boyer and Boyer was not responsive. The employees felt that management would not listen to them and they were looking for other ways to achieve their goals. Quintero also noted that Boyer had made it clear to the employees that only he could alter working conditions. Everyone else was subordinate to him. Bomar volunteered that actually he (Bomar) ran the company and if employees had problems they should come to Bomar. Bomar asked Quintero if the Union movement was a result of Quintero's not being hired as a shift commander. Bomar explained that only paramedics were given management positions, thus, as an EMT, Quintero had not qualified. Bomar offered Quintero a management job in Bomar's office. Quintero declined, stating that the Union movement was not about Quintero, it was about all the employees.

On arriving at the rental truck site, Bomar asked Quintero if he realized that the Union movement could bring the company to bankruptcy. "If we can just meet together without the union around, me and some of the guys, that we can fix this." Quintero once again cautioned that he and Bomar should not be discussing this matter. Bomar countered, "It doesn't matter, you and I both know that unless there's a contract we can talk about anything we want to." Quintero explained that whenever there is Union activity, management and employees could not talk about it. Bomar continued that if Quintero would bring some guys in, they could work out any problems with Bomar. Bomar referenced a unionized ambulance competitor and told Quintero that this company treated "people like shit." He asked Quintero if that was what employees wanted. Quintero told Bomar that the other company was "a whole different situation."

Quintero got into the rental truck to drive it back to the main office. Bomar asked, "You see this truck?" When Quintero responded that he did, Bomar said, "Well, you could be using a truck just like this to haul the furniture away from your house because you won't have a job." Quintero started the truck's engine and Bomar once again asked Quintero to bring in some of the employees to see if their problems could be worked out with him. Quintero drove away.

General Counsel notes that Bomar was not called as a witness even though Bomar was specifically named in the complaint as the manager who committed seven of the eight alleged 8(a)(1) instances of interference. General Counsel asks that I draw an adverse inference from Respondent's failure to call Bomar. Not only do I draw an adverse inference from Respondent's failure to call Bomar, I also note that Quintero was an excellent witness. His testimony was highly credible. Moreover, I note Brown's uncontested testimony that on February 18, he informed Bomar of the Union activity and told Bomar that only Brown and Cruise were to discuss this matter with employees. Thus it is inherently probably that two days later, Bomar would initiate such a conversation.

Alleged Solicitation of Grievances and Promise to Remedy

Although an employer with a past practice of soliciting employee grievances may continue to do so during a Union campaign, see, e.g., *Wal-Mart Stores,* 340 NLRB No. 76, slip opinion at 4 (Sept. 30, 2003), citing *Kingsboro Medical Group,* 270 NLRB 962, 963 (1984), there is no evidence that Respondent had any such practice. Accordingly, if Respondent solicited grievances and explicitly or implicitly promised to remedy these grievances, Respondent interfered with employee Section 7 rights to organize. *Wal-Mart Stores, supra,* citing *Maple Grove Health Care Center,* 330 NLRB 775 (2000); Uarco, Inc., 216 NLRB 1, 2 (1974).

On several occasions, Bomar offered to fix any problems the employees had: "If we can just meet together without the union around, me and some of the guys, that we can fix this." Bomar continued that if Quintero would bring some guys in, they could work out any problems with Bomar. These statements reasonably tended to interfere with the free exercise of employees' Section 7 rights. See, e.g., *Desert Aggregates,* 340 NLRB No. 38, slip opinion at 1, 10 (Sept. 23, 2003)(unlawful solicitation and promise to remedy when employer asked what employees' issues were and then asked employees to give it a year so that things would change).

Alleged Interrogation

In determining whether a supervisor's questions to an employee constitute an unlawful interrogation, the Board examines whether, under all the circumstances, the questioning reasonably tends to interfere with, restrain, or coerce employees

> in the exercise of their Section 7 rights. *Rossmore House*, 269 NLRB 1176 (1984), affd. sub. nom. *Hotel Employees Local 11 v. NLRB*, 760 F.2d 1006 (9th Cir. 1985). Under this totality of circumstances approach, the Board examines factors such as the employer's background (i.e., whether there is a history of employer hostility and discrimination); the nature of the information sought (e.g., whether the interrogator appeared to be seeking information on which to base action against individual employees); the identity of the questioner (i.e., his position in the company hierarchy); place and method of interrogation (e.g., whether the employee was called from work to the boss' office; whether the tone of the questioning was hostile or threatening); and truthfulness of the reply. *Bourne v. NLRB*, 332 F.2d 47, 48 (2d Cir. 1964). Although "strict evaluation of each factor" is not required, these "useful indicia ... serve as a starting point for assessing the totality of the circumstance[s]." *Perdue Farms, Inc. v. NLRB*, 144 F.3d 830, 835 (D.C. Cir. 1998).

Heartshare Human Services of New York, Inc., 339 NLRB No. 102, slip opinion at 2 (July 29, 2003).

Bomar asked Quintero why Quintero was "out to hurt him and Greg Boyer on this union drive . . . why [Quintero] was fucking with him and Greg Boyer." Quintero protested that he and Bomar were not supposed to talk about this. Quintero was an open Union advocate. However, Boyer was belligerent and profane. Certainly, faced with Boyer's accusations, Quintero could reasonably assume that Bomar might take action against him. Bomar trapped Quintero in a moving car before asking these questions. Although there is no evidence of prior hostility or discrimination, Bomar not only questioned Quintero, he also made a number of other statements to Quintero which were coercive. Accordingly, under the totality of the circumstances, I find Bomar's questions, although somewhat rhetorical, were unlawful because they reasonably tended to interfere with employee Section 7 rights.

Alleged Promise of Promotion

During the course of the trip to the rental truck facility, Bomar questioned Quintero regarding whether Quintero had started the Union because Quintero was not promoted to the shift commander position. Bomar offered Quintero a management job in Bomar's office. Quintero declined, stating that the Union movement was not about Quintero, it was about all the employees. There is no more obvious method of interfering with employee Section 7 rights than grants of benefits such as wage increases. *Medo Photo Supply Corp. v. NLRB,* 321 U.S. 678, 686 (1964).

> The danger inherent in well-timed increases in benefits is the suggestion of a fist inside the velvet glove. Employees are not likely to miss the inference that the source of benefits now conferred is also the source from which future benefits must flow and which may dry up if it is not obliged.

NLRB v. Exchange Parts Co., 375 U.S. 405, 409 (1964)(footnote omitted). By offering Quintero a management position, Respondent reasonably tended to interfere with employee Section 7 rights. See, e.g., *Structural Finishing,* 284 NLRB 981, 1004 (1987), relied upon by counsel for the General Counsel.

Alleged Threat of Bankruptcy

Bomar told Quintero that the Union effort was going to drive the company into bankruptcy. Bomar also asked Quintero if he realized that the Union movement could bring the company to bankruptcy. The Supreme Court set forth the parameters for employer speech regarding the effects of union organization in *NLRB v. Gissel Packing Co.,* 395 U.S. 575, 618 (1969). In general, an employer may tell employees its views about unionism as long as the communication does not contain a "threat of reprisal or force or promise of benefit." A prediction about the precise effects of unionization on the company must be "carefully phrased" to show that it is based on "objective facts" conveying a "belief as to demonstrably probable consequences beyond his control." It is unlawful to threaten job loss as a consequence of unionization "if there is any implication that an employer may or may not take action solely on his own initiative for reasons unrelated to economic necessities and known only to him." Bomar's remark was not based upon any objective facts as to demonstrably probable consequences beyond his control and thus constituted an unlawful threat which reasonably tended to interfere with employees' Section 7 rights. See, e.g., *American Wire Products,* 313 NLRB 989, 993 (1994)(threat of plant closure not tied to objective facts regarding economic conditions constituted objectionable conduct).

Alleged Threat of Job Loss[5]

Bomar told Quintero he could be using a truck to haul the furniture away from his house because he would not have a job if employees unionized. Bomar's statement contained no objective facts regarding demonstrably probable consequences beyond the company's control. Accordingly, based upon the record as a whole, I find that the statement constituted a threat that reasonably tended to interfere with, restrain and coerce employees in the exercise of their Section 7 rights. See, e.g., *Venture Industries,* 330 NLRB 1133 (2000), relied upon by counsel for the General Counsel.

B. Quintero's Conversation with Brown on Returning to the Main Office

Immediately on returning to the main office, Quintero reported the contents of his conversation with Bomar to Brown. Brown volunteered that he was not surprised because Bomar had just come in and told Brown that he and Quintero had a "real good talk, but nothing was said about the union." Brown opined that this raised his suspicions that maybe something had been said about the union. Brown told Quintero he could not advise him on what to do. Quintero said he had hoped that the Union effort could be "nice and clean." Quintero asked Brown to intercede and prevent Bomar from making statements to other employees.

In response, Brown spoke to human resources manager Loy Cruise. Brown reiterated Quintero's report of his conversation with Bomar. Brown opined that Bomar had "crossed the line." Brown noted that both he and Cruise had already told Bomar not to talk to employees about Union related matters and, apparently, Bomar had ignored this counsel.

[5] The consolidated complaint alleges that a threat of job loss occurred in a subsequent conversation on the same date. However, the allegation is considered at this point, conforming the pleadings to the evidence.

C. Alleged Threat of Bankruptcy, Statement that Employees Should Work Out Grievances Without Union

Meanwhile, after speaking with Brown, Quintero assisted with the move. Around 11:30 a.m., Bomar approached Quintero in the ambulance parking area at the main station. Bomar asked Quintero to find out what everyone wanted for lunch. Bomar asked Quintero if Quintero was out to hurt Bomar and Boyer. Bomar asked Quintero why he was beginning a Union drive -- was it to hurt Respondent. What could Respondent do to fix employees' problems? What do employees need fixed –what could Respondent do to "work it out?" Quintero cautioned Bomar that they could not discuss these subjects and said, "I'm getting mad, Trevor, and I . . . don't want to, and I don't want you to get mad, don't take it personally, this is not a personal hit, this is for the company, for the guys."

Shift commander Stockley joined the conversation and Bomar stopped talking. Stockley asked about boxes being moved to storage. He and Quintero talked briefly and then Stockley left. Bomar said, "Let's fix it, what do we need to fix this, what can I do to help you, what." "Let's not go any further." Quintero left Bomar stating, "I'm getting mad and we're not accomplishing nothing." Quintero reported to Stockley and said, without going into detail, that Bomar "has been drilling me out there and it's not right." Stockley said he suspected something was wrong because Bomar quit talking when Stockley approached. Stockley agreed to talk to Brown about the situation and urge Brown to prevent Bomar from talking about the Union.

For the same reasons that Bomar's prior statement regarding remedying of employee problems was unlawful, I find that these statements were also unlawful. There is no evidence that a further threat of bankruptcy occurred upon return to the main office. Accordingly, this allegation is dismissed.

V. Brown's Discharge

A. Brown's Request that Bomar be Disciplined

Upon hearing that Bomar had spoken to Quintero two times, Brown reported that matter to human resources manger Loy Cruise. Brown recommended disciplinary action be taken against Bomar for failure to follow instructions about appropriate discussions with employees during the Union campaign. If Quintero's statements were verified by anyone in the area during the second conversation, Brown felt that serious disciplinary action was warranted. Brown, who had known Quintero for about 15 years, told Cruise he did not believe that Quintero would lie to him. Brown recommended that Bomar be terminated or, at least, demoted. Brown then reported the matter to vice-president of operations Greg Boyer. Boyer told Brown not to worry about Bomar. Brown also reported the matter to vice-president of administration Wayne Clonts.

Human resources manager Loy Cruise followed up on Brown's report by speaking with Quintero on the evening of February 20, before Quintero returned the rental truck. Quintero repeated his conversations with Bomar to Cruise. Cruise also spoke to shift commander Stockley later that evening. Stockley repeated his conversation with Quintero to Cruise.

In a meeting on February 21, Brown recommended to Cruise, Burton and Clonts that, due to Bomar's actions on February 20, the four of them should act as a disciplinary panel and limit Bomar's responsibilities only to the maintenance shop. Brown reasoned that Bomar would not be able to interfere with employees in this position. Clonts opined that without Boyer (whom they could not locate), the four of them could only make a recommendation. Clonts believed that

because of Bomar's relationship with Boyer, Boyer would have to make the ultimate decision on any disciplinary action. The four unanimously concluded that Bomar should be removed from the position of field personnel manager and scheduler. The four discussed alternative positions such as facilities manager or fleet maintenance manager.

Quintero made a written record of his conversations with Bomar. He also reported the matter to Loy Cruise and Wayne Clonts and gave them a copy of his written recollections. Ultimately, Boyer decided to orally chastise Bomar for his discussions with Quintero.

B. Brown Conducts February 11 Shift Commander Meeting

Brown routinely held shift commander meetings. The meeting held on February 11 followed a written agenda. One item of business concerned Brown's inability to discipline Trevor Bomar for scheduling errors. There is no dispute that scheduling errors routinely occurred. After completing the agenda items, either Singleton or Matlock told Brown they had not received a promised wage increase. The shift commanders were concerned that the raise might not be granted given capital expenditures for the upcoming move of the main office. Brown told the shift commanders that he would present the issue to Greg Boyer, who had made the promise of the wage increases. According to Brown, he added that the four of them (the three shift commanders and he) needed to stick together on this issue and others raised during the meeting, including Brown's desire for more disciplinary authority. Brown testified that he said the four of them needed to go to Greg Boyer and "have a sit-down" until progress was made. Singleton asked if they could form a supervisors union and Brown responded, "absolutely not."

Singleton testified that Brown told the shift commanders that they needed to put their jobs on the line and walk away from the shift commander position if they did not receive the raise. In a statement given to Clonts on March 20, however, Singleton agreed he stated that Brown told the shift managers they needed to stick together when they asked for their raises. Singleton also agreed that when he gave an affidavit to the NLRB, he did not state that Brown said the shift commanders needed to put their jobs on the line. I find Singleton's earlier written statements, that Brown said the shift commanders needed to stick together when they asked for raises, is a more accurate reflection of Singleton's memory. Singleton admitted on the witness stand that he could not at that time remember Brown's exact words. In any event, Singleton asked Brown if he was suggesting they form a managerial union. Brown said no, that would be illegal. Three or four days later, about February 14 or 15, Singleton spoke to Burton and told Burton about Brown's comment. Singleton told Burton he felt very uncomfortable about Brown's comment. Burton told Singleton he would speak to Brown about the comment and asked Singleton if he could tell Brown that it was Singleton who came to Burton and reported the matter. Singleton agreed. There is no dispute that Burton never spoke with Brown about the comment.

Stockley recalled Brown's February 11 statement as follows: if Boyer was unwilling to listen to the concerns of the shift commanders, they needed to come together in Boyer's office and "strike" if Boyer did not grant the raises. When Matlock approached Stockley, concerned about Brown's comment, Stockley told Matlock he thought Brown simply meant that the four needed to show solidarity. Stockley did not report Brown's comments to higher management.

Matlock recalled that Brown said the four of them needed to go as a group to Boyer and insist that changes in training, disciplinary matters, and the raises, be made or they would "walk." Matlock reported this comment to Burton "a few days" after Matlock spoke to Singleton, which was "a few days" after February 12, the day Matlock spoke to Stockley. Assuming that "a few days" is two or three days, this conversation may have taken place some time between February 14 and February 18. In any event, Burton responded to Matlock that he was aware of the comment and management was "handling it."

Based upon the testimony of the four participants in the February 11 shift commander meeting, I find that Brown told the shift commanders they needed to approach Boyer as a group and "strike," "walk," or "have a sit-down" in order to persuade Boyer to grant the promised wage increases and additional authority to Brown and that this was reported to Burton by Singleton and Matlock. Burton testified that he was told that Brown told the shift commanders to "stand up and walk out."

C. Brown's February 17 Conversation with Boyer

On February 17, Boyer told Brown that it appeared that the union organizing drive was continuing and there was a rumor that 50% of the employees had already signed union authorization cards. Boyer asked Brown if he knew who the main union organizers were. Brown responded they were Steve Quintero, Tony Lopez, and Shaun King. Boyer exclaimed that these three should be fired. Brown explained that the organizers had to be treated just like other employees and, because these three had done nothing wrong, they could not be fired.

Boyer complained that he "had bent over backwards" for Quintero, noting that Respondent had provided an ambulance to Quintero to pick up his daughter at school when she was ill. Moreover, Boyer noted that Quintero was one of the "Fountain Hill guys" (referencing Respondent's hiring of the personnel from Fountain Hill fire station, including Brown, after it was closed). Boyer concluded that he just didn't understand how Quintero could do this to him and he wanted "to rip Steve's fucking head off." Boyer told Brown again that he wanted the three organizers fired. Brown refused. Brown explained the legal problems in firing the union organizers. Boyer responded, "Then at a minimum we needed to suspend them for 30 days in order to send them a message." Brown told Boyer that Respondent could not do that when the employees had done nothing to deserve this discipline.

Boyer agreed that he met with Brown and testified that he vented about the Union and told Brown that Respondent treated its employees very well and tried to listen to their needs. Boyer agreed that during this conversation he told Brown that he thought Quintero was ungrateful in terms of his involvement with the union. Boyer told Brown the employees were ungrateful to try to organize or try to bring in the union. Boyer denied that he asked Brown to discharge any employee. I credit Brown's testimony over that of Boyer. Brown was an excellent witness who provided detailed, thoughtful, intelligent responses.

On the following day, Brown spoke with Boyer and Cruise. Boyer told Brown that Boyer, Cruise and Clonts were going to meet with a labor attorney later that day to discuss the company's position vis-à-vis the Union. Boyer expressed disappointment that employees were trying to organize a Union and stated concern for the impact this would have on Respondent. Boyer stated that he had bent over backwards for all the employees, especially the former Fountain Hills employees. Cruise agreed that Respondent had bent some rules for the Fountain Hills employees and stepped toward Brown, pointed at him, and said, "This is kind of like a big 'fuck you' by the Fountain Hills guys."

D. Brown's February 18 Conversation with Bomar

After a management meeting which Brown conducted on February 18, Brown spoke with Trevor Bomar in Bomar's office. Brown told Bomar that he and other managers had become aware of a union organizing effort among the paramedics and EMTs. Bomar asked why the employees would want a union, why would they need a union. Brown said he did not know. According to Brown, Bomar lamented,

> How could they do this to me. . . . I do everything for these guys. I give them time off for every type of thing, if they have a family member sick, if they have a family member coming in town. . . . I bend over backwards for them and give them all this leeway, and this is how they repay me, by trying to form a union.

Brown admonished Bomar that he was taking the matter too personally and explained that unions happened for a number of different reasons and perhaps had nothing to do personally with Bomar. Bomar responded that the company should get rid of or fire the employees involved in the union movement: "We should fucking fire them . . . to fucking send them a message that we run the company and make the decisions."

Brown advised Bomar that he (Brown) and human resources manager Cruise were developing a plan of action. Brown told Bomar that he and Cruise were advising all other managers to stay out of the union campaign and refer all questions to Cruise and Brown. This would protect all the other managers as well as the company. Several days later, Bomar approved the use of Cruise and Brown to be the main contacts for activities or questions about the union organizing effort.

Brown was a highly credible, forthright witness. I credit his testimony. Moreover, Bomar did not testify at all, about this or any other matter. I draw an adverse inference from his failure to testify.

E. Respondent's Disciplinary System

Respondent's disciplinary policy utilizes progressions from oral counseling, to written reprimand, to suspension, to probation, to termination. Respondent reserves the right to terminate without prior warning when misconduct is serious. Typically Respondent investigates the alleged misconduct, including an interview with the alleged malfeasor. A panel of three or four managers or supervisors is convened. In order to discipline a manager or supervisor, the panel must consist of equal or higher ranking managers or supervisors. The decision of the panel must be unanimous. Lacking unanimity, the discipline resulting is the next lower level of discipline upon which all participants can agree.

F. February 22 and 24 Incident Regarding Shaun King

Paramedic Shaun King was a known Union advocate. On Saturday, February 22, shift commander Matlock told operations manager Brown that King had failed to show proper respect to a district manager when she spoke to King about wearing a baseball cap backwards and wearing a gray long sleeved shirt under his uniform T-shirt while on duty. Matlock also reported to Brown the King reported to Station One later that day still wearing the baseball cap backwards and the grey T-shirt and Matlock spoke to King again about failure to wear his uniform properly. Matlock informed Brown that he felt that King showed a lack of respect for

Matlock. Brown told Matlock that King should be disciplined but Brown wanted to speak to some other managers before determining what form of discipline was appropriate.

On February 24, Brown told Boyer about the two incidents. Boyer, who knew that King was involved with the Union organizing drive, told Brown to fire King. Brown stated that he did not think King's actions deserved such severe punishment. Boyer responded that King should be suspended for 30 days, at a minimum. Brown told Boyer he thought this was too severe. Brown said he would review personnel records to ascertain whether some other progressive discipline might be appropriate.

Brown reported the matter to Cruise and then examined King's personnel file. Based on this review, Brown recommended to Cruise that King be given a written reprimand. Later, Cruise and Clonts told Brown they would take up this matter with Respondent's labor attorney. On March 3, Boyer again asked Brown about King's discipline. Brown reported that King was given a written reprimand and 90 day's probation. Boyer told Brown this was inadequate discipline and King should really be suspended or discharged. Boyer denied that he ever recommended that King or other union advocates be discharged. Boyer vaguely recalled that he might have agreed with Brown's decision to suspend King for some reason. I credit Brown's detailed version of his dealings with Boyer regarding King.

G. Bomar's Statement to Brown of February 27

On February 27, around 10 a.m., Bomar and Brown talked in Brown's office. Bomar told Brown that it was his opinion that the Union organizers had told employees not to work any overtime. Bomar told Brown he had just spoken to EMT Brian Miller and told him "he needed to hire more people who were not 'tainted' by what was going on at PMT."

Brown immediately reported this matter to Cruise to get his opinion on whether this comment might be an unfair labor practice. Cruise said he thought it would be. Cruise said he would take the matter to Clonts. Clonts came to Brown's office thereafter and asked Brown to repeat what Bomar had told Brown. Brown did so. Then they called Bomar into the office. Bomar admitted he told Miller that he had to hire employees but Bomar denied he told Miller anything about "tainted" employees. Bomar told Brown that he (Bomar) had spoken to Brown behind closed doors and Brown should not have repeated this to other managers. When Bomar left, Clonts instructed Brown to interview Brian Miller.

Brown located Miller and asked Miller if he thought that Bomar had said anything inappropriate to him. Miller had only a vague recollection of his conversation with Bomar. Based on this, Brown reported back to Cruise that Miller did not recall anything inappropriate. Brown concluded that Respondent was "okay" on the issue.

H. Discharge of Brown

About February 14 or 15, when Burton was advised of Brown's comments at the February 11 shift commander meeting, Burton reported to Boyer that Brown told the shift commanders to "stand up and walk out" in support of Brown's desire to have greater authority in disciplinary matters. Burton was concerned that Brown was attempting to order the shift commanders to "go against the company" so that Brown could exercise more authority than previously granted to him.

On about February 19, Matlock met with Cruise, Boyer and Clonts and repeated what he recalled Brown saying at the February 11 meeting: that the four needed to go to Boyer's office

and voice their concerns as a group. If changes were not made, they would walk. Matlock could not recall if he told Cruise, Boyer, and Clonts that pay raises were a part of their concerns.

Several days after making his report to Boyer, Burton was called into a meeting with Clonts and Boyer. The three agreed that Brown should be discharged "for putting managers in a position of telling them to go against the company." Cruise was in and out during the panel discussion. He advised the participants that they should let the matter "ride" due to Brown's involvement in the ongoing union organizing campaign. There is no dispute that Brown was never contacted regarding this matter.

Although Cruise advised that discipline of Brown should be deferred, on March 3, Boyer and Clonts decided to discharge Brown anyway. Cruise was not called to this meeting. Clonts testified that Brown was discharged because he instructed shift commanders to be insubordinate to the vice president by threatening to walk off their jobs if they did not get what they wanted.

On March 4, Boyer told Brown that Brown was discharged and would receive one week's severance pay. No reason for the discharge was given. Boyer escorted Brown to his office to pack his personal belongings, handed Brown a final paycheck, and escorted Brown out of the building.

Following the discharge, Stockley was called to Boyer's office to meet with Boyer, Clonts, Burton, and Cruise. Stockley was informed that Brown had been discharged. No reason for the discharge was given to Stockley. Stockley was asked to give a written statement regarding his recollection of the February 11 shift commander meeting.

Every member of management who testified agreed that Brown was an excellent manager. No misconduct, other than the February 11 shift commanders meeting, was the stated basis for Respondent's decision to discharge Brown. It is agreed that Brown had received no disciplinary action of any kind prior to his discharge.

No employee action report was completed for Brown's discharge until April 1. On that date, Cruise completed such a report stating, "Employee was terminated with no reason given as allowed under Arizona's Employment Protection Act (AZ Rev. Stat Sec 23-1501) By Greg Boyer." This was the first time that Cruise had stated "no reason given" on an employee action report.

I. Arguments

The consolidated complaint alleges that Brown was discharged in violation of Section 8(a)(1) of the Act because Brown refused to commit unfair labor practices and discouraged other supervisors from committing unfair labor practices. Respondent has filed a motion for summary judgment regarding the allegation that Brown was fired for discouraging other supervisors from committing unfair labor practices, arguing that this allegation does not state a

violation of the Act.[6] It is clear that an employer violates Section 8(a)(1) when it disciplines or discharges a supervisor for refusal to commit unfair labor practices. *Casa San Miguel,* 320 NLRB 534, 546 (1995); *Parker-Robb Chevrolet, Inc.,* 262 NLRB 402, 402-403 (1982), enfd. 711 F.2d 383 (D.C. Cir. 1983). All parties agree that a *Wright Line*[7] analysis is appropriate in analyzing the legality of Brown's discharge. See, e.g., *Pioneer Hotel & Gambling Hall,* 324 NLRB 918, 929 (1997), enfd. in part, 182 F.3d 939 (D.C. Cir. 1999)(applying the shifting burden of *Wright Line*).

As modified for alleged unlawful discharge of a supervisor, pursuant to *Wright Line,* the General Counsel's initial burden is to establish by a preponderance of the evidence that the supervisor engaged in protected activity, Respondent was aware the supervisor engaged in such activity, an adverse employment action was taken against the supervisor, and a motivational nexus exists between the supervisor's protected activity and the adverse employment action. This proof warrants an inference that the supervisor's protected conduct was a motivating factor in the adverse employment action thus creating a rebuttable presumption of a violation. The burden then shifts to the employer to demonstrate that the same action would have taken place even in the absence of the protected conduct. See generally, *American Gardens Management Company,* 338 NLRB No. 76, slip opinion at 2 (Nov. 22, 2002).

Respondent argues that the General Counsel failed to establish by a preponderance of the evidence that Brown was discharged for refusing to commit unfair labor practices. Respondent claims the only evidence presented that Brown engaged in the protected activity of refusing to commit an unfair labor practice is that Boyer instructed Brown to fire King and Brown refused. Respondent avers that Brown's testimony regarding this point should be discredited as totally uncorroborated, illogical, and emphatically and credibly denied by Boyer.

General Counsel asserts that on several occasions, Brown refused to commit an unfair labor practice. First, on February 17, Brown refused to fire the three known Union adherents at Boyer's request. Brown also refused Boyer's request to suspend the three known Union adherents. Second, on February 18, Bomar told Brown that pro-union employees should be fired. Brown explained that a comprehensive plan for dealing with the Union was being formulated. Third, Boyer directed Brown to fire Union advocate King for lack of respect on two occasions when he was reprimanded for failure to wear his uniform properly. Brown refused to fire or suspend King without examining his personnel file pursuant to the progressive discipline system.[8] General Counsel asserts that these actions and others undertaken by Brown also

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[6] Respondent also argues that it was denied due process because the General Counsel refused to provide it with evidence supporting the allegation that Brown was discharged for refusing to commit unfair labor practices. I note that the General Counsel is bound by Rule 102.118 of the Board's Rules and Regulations, which prohibits production of such documents without the consent of the Board. Respondent's argument regarding due process is also controlled by Rule 102.118 and would be more appropriately addressed to the Board as a request to change the rule.

[7] *Wright Line,* 251 NLRB 1083, 1089 (1980), enfd. 662 F.2d 889 (1st Cir. 1981), cert. denied, 455 U.S. 989 (1982), approved in *NLRB v. Transportation Management Corp.*, 462 U.S. 393, 399-403 (1983).

[8] General Counsel also relies on Brown's refusal to fire or suspend King on March 4. I find that this cannot be a factor in the decision to discharge Brown as the discharge occurred simultaneously with this refusal and there is no dispute that the decision to discharge Brown was made on the prior day, March 3.

prove by a preponderance of the evidence that Brown discouraged other supervisors from committing unfair labor practices.

General Counsel argues that the timing of the discharge, Union animus, and failure to conduct a full investigation into the February 11 conduct as well as failure to utilize the progressive disciplinary system provides a nexus between the discharge and the protected activity. General Counsel also notes that from February 11 through February 17, Respondent did nothing about Brown's remarks at the February 11 meeting. However, after Brown's refusals to commit unfair labor practices on February 17, 18, and 24, Respondent began the process of taking action against Brown.

J. Analysis

A preponderance of the credible evidence establishes that Respondent had knowledge that statutory supervisor Brown refused to commit unfair labor practices by firing known Union adherents. Thus, on February 17, Boyer twice asked Brown to discharge the three leading Union adherents and Brown refused stating that these three had done nothing to justify discharge. Boyer then asked Brown to suspend them for 30 days to teach them a lesson and Brown again refused. On February 18, Bomar asked Brown to fire the employees in favor of the Union and Brown refused. After one of the lead Union advocates, Shaun King, failed to show respect on February 22 to two of his supervisors when they orally requested that he wear his uniform within the guidelines, on February 24 Boyer told Brown that King should be fired. Brown opined that such punishment was too severe. Boyer said King should be suspended for 30 days at a minimum and Brown said that was too severe as well. Brown said he would look at King's personnel file and make a recommendation.

The nexus between Respondent's discharge of Brown and the motivation for the discharge is shown by a preponderance of the credible evidence as well. Thus, the General Counsel has established that the timing of the discharge, animus toward the Union movement, and failure to fully investigate Brown's alleged misconduct warrants an inference that Brown was discharged for refusing to commit unfair labor practices rather than for his comments at the February 11 meeting.

Burton initially learned of Brown's comments at the February 11 meeting on either February 14 or 15 when Singleton reported the comments. Matlock later reported Brown's February 11 comments to Burton. Clonts recalled discussing discipline of Brown in late February or early March. Clonts testified that in the "last few days" of February, he discussed discipline of Glenn Brown with Greg Boyer. "A few days" after the meeting with Boyer, Clonts spoke to the three shift commanders. He was advised the Brown told the shift commanders that they should go to Boyer's office and threaten to quit or walk off the job if Boyer did not solve the problem of Bomar's scheduling errors and did not give them raises. Cruise, Burton, and Boyer did not recall specific dates.

Of the three managers who testified about when action was considered against Brown, only Clonts could provide a specific date, the last few days of February or a few days later in early March. This timing reflects failure to act until after Brown refused on February 17 to discharge the three main Union adherents, refused on February 18 to discharge pro-Union employees, and refused on February 24 to discharge King for his attitude about being told to correct his uniform violations. I find that a preponderance of the credible evidence establishes that the timing of Brown's discharge provides a motivational nexus between the protected activity and the adverse employment action.

Boyer and Bomar both expressed animus toward the Union and employees who supported the Union. Boyer and Bomar requested that Brown discharge certain employees because these employees supported the Union. Additionally, Boyer requested that Brown discharge King over failure to show respect when advised of a uniform code violation. Boyer's and Bomar's comments establish by a preponderance of the credible evidence that Respondent harbored animus toward the Union effort. This animus provides another nexus between the discharge of Brown and his protected activity of refusal to commit unfair labor practices.

Finally, Respondent did not fully investigate the February 11 matter prior to discharging Brown. Although Respondent spoke to Singleton and Matlock, Respondent failed to speak to Stockley[9] or Brown. Respondent typically interviewed the alleged wrongdoer and all witnesses before making a decision to discharge. Moreover, Respondent did not utilize its progressive disciplinary system. Both of these factors provide another link between Respondent's discharge of Brown and his protected activity. Thus a preponderance of the credible evidence provides a motivational nexus between Brown's discharge and his protected activity. Having already found that the General Counsel has shown by a preponderance of the credible evidence that Respondent had knowledge that statutory supervisor Brown refused to commit unfair labor practices, I further find on the record as a whole that a preponderance of the credible evidence supports an inference that Brown's refusal to commit unfair labor practices was a motivating factor in Respondent's action against him. Accordingly, the burden shifts to Respondent to establish that it would have taken the same action in any event.

Respondent relies on the February 11 comment of Brown as the sole reason for his discharge. Respondent's managers who made the decision to discharge Brown testified they viewed his comment to the shift commanders, "to stand up and walk out," as described by Burton, as an incitement to mutiny with the possibility of destroying Respondent from the inside. However, when Burton initially learned of the comment, his immediate response was to state he would discuss the matter with Brown. Burton never did this. No one convened a meeting of the shift commanders and/or Brown to discuss the comment and clear the air. Nothing happened. No shift commander ever took action in line with Brown's comment and Brown never repeated the comment. The entire incident simply vanished until late February or early March.

In examining discipline of another supervisor, it appears that Respondent reacted cautiously in meting out discipline, spoke to all involved during the investigation, and documented the results of the investigation. Thus, in December 2001, a director of communications was issued a written warning and suspended for a shift because he failed, after several requests that he do so, to implement an in/out log for the drug boxes containing narcotics and other controlled substances. Following this episode, three complaints were received alleging that the same director of communications had sexually harassed the three complainants. Each of these complaints was fully investigated and documented. The director of communications was allowed to present his version of the situations. No discipline was given regarding the first complaint. The director and the complainant received a warning after the second complaint was received. A third complaint was received in May 2002. Respondent fully investigated this complaint and found that it was substantiated. The director was consulted during the investigation. Upon conclusion of the investigation, the director was demoted to a dispatcher position. After several weeks, Respondent decided that it should have discharged the director rather than demoting him. The director was discharged in June 2002.

[9] Although some managers believed they had spoken to Stockley prior to Brown's discharge, I credit Stockley's testimony that he was not interviewed until after Brown's discharge.

In contrast, no internal documentation existed for Brown's discharge other than a note to the file from Cruise stating the Brown was discharged without any reason being given. After the discharge, Singleton, Matlock, and Stockley were asked to provide written statements about the February 11 shift commander meeting.

All witnesses agreed that Brown was an excellent manager with no prior discipline. I find, based on the disparate treatment accorded Brown, that his comments at the February 11 meeting were not the true reason for his discharge and that he would not have been discharged in any event. Rather, a preponderance of the credible evidence indicates that Brown was discharged for refusing to commit unfair labor practices.

General Counsel also asserts that Brown was discharged because he discouraged other supervisors from committing unfair labor practices. General Counsel argues that discouraging other supervisors from committing unfair labor practices is a logical extension to refusing to commit unfair labor practices. However, General Counsel does not present authority for such a cause of action nor am I able to find support for such a theory. Having already found a violation pursuant to established theory, it is unnecessary to reach a conclusion regarding the efficacy of this alternative theory. On this basis, the alternative allegation is dismissed.

Conclusions of Law

1. By interrogating an employee about his and other employees' union activities, soliciting employee complaints and grievances and promising to remedy them, promising an employee a promotion in order to discourage his supporting the union, threatening an employee that it could go bankrupt if employees selected the union as their collective-bargaining representative, offering to remedy employee problems without the Union's assistance, and threatening an employees with possible job loss if employees selected the union, Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.

2. By discharging supervisor Glenn Brown because he refused to commit unfair labor practices, the Respondent violated Section 8(a)(1).

Remedy

Having found that the Respondent has engaged in certain unfair labor practices, I find that it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having discriminatorily discharged Glenn Brown, Respondent must offer him reinstatement and make him whole for any loss of earnings and other benefits, computed on a quarterly basis from date of discharge to date of proper offer of reinstatement, less any net interim earnings, as prescribed in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), plus interest as computed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[10]

ORDER

Respondent, Professional Medical Transport, Inc., Tempe, Arizona, its officers, agents, successors, and assigns, shall

1. Cease and desist from:

   a. Coercively interrogating an employee about his and other employees' activities on behalf of International Association of Emergency Medical Technicians and Paramedics, NAGE-SEIU, AFL-CIO;

   b. Soliciting employee complaints and grievances and promising to remedy them;

   c. Promising an employee a promotion in order to discourage his supporting the Union;

   d. Threatening an employee that the company could go bankrupt if employees selected the Union as their collective-bargaining representative;

   e. Offering to remedy employee problems without the Union's assistance;

   f. Threatening an employee with possible job loss if employees selected the Union;

   g. Discharging or otherwise discriminating against any supervisor for refusing to discharge or discipline employees because of their Union activities; and

   h. In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

   a. Within 14 days from the date of this Order, offer Glenn Brown full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges previously enjoyed;

   b. Make Glenn Brown whole for any loss of earnings and other benefits suffered as a result of the discrimination against him in the manner set forth in the remedy section of the decision;

[10] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

c. Within 14 days from the date of this Order, remove from its files any reference to the unlawful discharge, and within 3 days thereafter notify Glenn Brown in writing that this has been done and that the discharge will not be used against him in any way;

d. Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order;

e. Within 14 days after service by the Region, post at its facilities in the greater Phoenix, Arizona area copies of the attached notice marked "Appendix."[11] Copies of the notice, on forms provided by the Regional Director for Region 28, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since February 20, 2003; and

f. Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated February 6, 2004
San Francisco, California

Mary Miller Cracraft
Administrative Law Judge

[11] If this Order is enforced by a Judgment of the United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities

WE WILL NOT

- Coercively interrogate you about your and other employees' activities on behalf of International Association of Emergency Medical Technicians and Paramedics, NAGE-SEIU, AFL-CIO;
- Solicit your complaints and grievances and promise to remedy them in order to discourage you from supporting the Union;
- Promise you a promotion in order to discourage your supporting the Union;
- Threaten you that the company will go bankrupt if you select the Union as your collective-bargaining representative;
- Offer to remedy your problems without the Union's assistance in order to discourage you from supporting the Union;
- Threaten you with job loss if you select the Union as your collective-bargaining representative;
- Discharge or otherwise discriminate against any supervisor for refusing to discharge or discipline employees because of their Union activities; and
- In any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act, set out above.

WE WILL

- Offer Glenn Brown reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges previously enjoyed;
- Make Glenn Brown whole for any loss of earnings and other benefits resulting from his discharge, less any net interim earnings, plus interest; and
- Within 14 days from the date of the Board's Order, remove from our files any reference to the unlawful discharge of Glenn Brown, and, within 3 days thereafter, notify him in writing that this has been done and that the discharge will not be used against him in any way.

PROFESSIONAL MEDICAL TRANSPORT, INC.

_____
(Employer)

Dated _____ By _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

2600 North Central Avenue, Suite 1800, Phoenix, AZ 85004-3099

(602) 640-2160, Hours: 8:15 a.m. to 4:45 p.m.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, (602) 640-2146.